

**INTERIM PROCEDURES TO IMPLEMENT N.J.S.A. 18A:7G-12  
PENDING PROMULGATION OF RULES AND REGULATIONS BY  
THE STATE BOARD OF EDUCATION**

*The following procedures have been developed to implement, on an interim basis, the provisions of N.J.S.A. 18A:7G-12, whereby a board may appeal to the Commissioner of Education for authorization to issue school bonds without voter approval under certain circumstances. The Department anticipates, in the near future, presenting rules embodying this process to the State Board of Education for promulgation in accordance with the Administrative Procedure Act.*

To initiate an appeal to the Commissioner seeking authorization for issuance of bonds, a petition must be filed with the Bureau of Controversies and Disputes in conformance with N.J.A.C. 6A:3-1.4. The petition should:

- Be captioned *In the Matter of the Application of the Board of Education of the [Township, Borough, etc.] of [District], [Name] County, for an Order Directing Issuance of Bonds pursuant to N.J.S.A. 18A:7G-12.*
- Be verified and filed in triplicate.
- Briefly set forth the basis for the board's appeal, indicating how the board's application meets the statutory criteria for consideration by the Commissioner. It must be accompanied by a board resolution approving the appeal, a written justification explaining why the proposed project(s) are necessary for the provision of a thorough and efficient system of public education, and documentation of the failed referenda underlying the appeal.

Upon receipt of a conforming petition and supporting materials, the Bureau will forward the file to the Office of School Facilities in the Division of Finance (OSF), which will review the materials submitted and work with the district to the extent necessary to ensure that the file contains all information required to establish that the project(s) failed two referenda, the second on a proposal without excess costs, and that they are consistent with facilities efficiency standards. Once the OSF determines that the file is complete, the OSF will return the file to the Bureau with a copy of its written report to the board confirming the results of its review.

Upon return of a completed file from the OSF, the Bureau will notify the board that it has met the prerequisites for seeking an order of the Commissioner directing issuance of bonds. The board will then be directed to:

- Announce at an upcoming board meeting that interested persons may submit written comments to the Commissioner through the Bureau, in duplicate and no more than 10 pages in length, with a copy to the board.
- Publish in a minimum of two newspapers, one local and one statewide, notice of the opportunity for the public to file such comments. Both the announcement and

the published notice must identify clearly the nature and scope of the proposed capital project(s), the amount of bonds the board seeks to issue, the fact that the voters have previously rejected referenda seeking such issuance and the number of such rejections, and the purpose of the board's appeal to the Commissioner.

- File a sworn certification that the required announcement was made and the required notice published.

Upon receipt of the board's certification and expiration of the designated public comment period, the Bureau will, on behalf of the Commissioner, transmit the file to the Office of Administrative Law (OAL) with a request to the Director that the matter be heard as an uncontested case pursuant to *N.J.A.C. 1:1-21.1*. The Bureau will request that:

- The hearing be conducted on an expedited basis and, to the extent possible, at a location close to the municipality(ies) involved.
- Interested persons be provided a reasonable amount of time, as determined by the assigned Administrative Law Judge, to present comments without unduly prolonging the proceedings.
- Written notice of the hearing date(s) go to the board and its legal representative.
- The Board be directed to effectuate notice to interested persons by announcing the hearing date at a board meeting prior to the hearing date, and to publish same in a minimum of two newspapers, one statewide and one local, with a minimum of 20 days notice provided through both means; and that the board be directed to submit proof of both the announcement and the publication to the assigned judge.
- The board be required to present proofs, in a manner to be determined by the assigned judge, as to why the capital project(s) for which it seeks issuance of school bonds are necessary for the board to continue to provide its students with a thorough and efficient education, that being the only standard upon which a Commissioner decision to order issuance of bonds may be based pursuant to statute and regulation.

Following review of the OAL report issued pursuant to *N.J.A.C. 1:1-21.1*, the Commissioner will make his final determination in a written decision taking into account the OAL's findings of fact and conclusions of law.

- If the Commissioner finds that the project(s) are necessary for provision of a thorough and efficient system of education in the district, his decision so indicating will authorize the board to take steps to prepare for issuance of bonds and direct the board to submit detailed plans and specifications to the OSF, or if these are unavailable, the most complete available documentation on the project(s).

Approved project(s) will then proceed at the OSF as Authority project(s) pursuant to the applicable provisions of *N.J.A.C. 6A:26-3*.